

## *EXHIBIT B*

Lisa F. Laux, PhD - 4/15/2019

| <p style="text-align: center;">1</p> <p>IN THE UNITED STATES DISTRICT COURT<br/>FOR THE DISTRICT OF NEBRASKA</p> <hr/> <p>RYSTA LEONA SUSMAN, both ) Case No. 8:18-cv-00127<br/>individually and as Legal )<br/>Guardian of SHANE ALLEN )<br/>LOVELAND, et al., )<br/>Plaintiffs, )<br/>vs. )<br/>THE GOODYEAR TIRE &amp; )<br/>RUBBER COMPANY, )<br/>Defendant. )</p> <hr/> <p>DEPOSITION OF LILA F. LAUX, Ph.D. April 15, 2019</p> <hr/> <p>APPEARANCES:<br/>KASTER, LYNCH, FARRAR &amp; BALL, LLP<br/>By Kyle W. Farrar, Esq.<br/>1010 Lamar Street<br/>Suite 1600<br/>Houston, Texas 77002<br/>Appearing on behalf of Plaintiffs.</p> <p>GREENSFELDER, HEMKER &amp; GALE, P.C.<br/>By Edward S. Bott, Jr., Esq.<br/>10 South Broadway<br/>Suite 2000<br/>St. Louis, Missouri 63102<br/>Appearing on behalf of Defendant.</p> | <p style="text-align: center;">3</p> <p style="text-align: center;">I N D E X (Continued)</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;">2</th><th style="width: 80%;">EXHIBITS</th><th style="width: 10%;">INITIAL REFERENCE</th></tr> </thead> <tbody> <tr> <td>3</td><td>Exhibit 1</td><td>3-13-19 Laux Report</td></tr> <tr> <td>4</td><td>Exhibit 2</td><td>Laux Testimony List</td></tr> <tr> <td>5</td><td>Exhibit 3</td><td>Laux C.V.</td></tr> <tr> <td>6</td><td>Exhibit 4</td><td>Laux Fee Schedules</td></tr> <tr> <td>7</td><td>Exhibit 5</td><td>3-13-19 Laux Invoice</td></tr> <tr> <td>8</td><td>Exhibit 6</td><td>Thumb Drive - *Retained by Mr. Bott*</td></tr> <tr> <td>9</td><td>Exhibit 7</td><td>Deposition Notice</td></tr> <tr> <td>10</td><td>Exhibit 8</td><td>Michelin Technical Bulletin</td></tr> <tr> <td>11</td><td>Exhibit 9</td><td>Continental Product Service Information Bulletin</td></tr> <tr> <td>12</td><td>Exhibit 10</td><td>Cooper Service Bulletin</td></tr> <tr> <td>13</td><td>Exhibit 11</td><td>Laux Testimony List</td></tr> <tr> <td>14</td><td></td><td>115</td></tr> <tr> <td>15</td><td></td><td></td></tr> <tr> <td>16</td><td></td><td></td></tr> <tr> <td>17</td><td></td><td></td></tr> <tr> <td>18</td><td></td><td></td></tr> <tr> <td>19</td><td></td><td></td></tr> <tr> <td>20</td><td></td><td></td></tr> <tr> <td>21</td><td></td><td></td></tr> <tr> <td>22</td><td></td><td></td></tr> <tr> <td>23</td><td></td><td></td></tr> <tr> <td>24</td><td></td><td></td></tr> <tr> <td>25</td><td></td><td></td></tr> </tbody> </table> | 2  | EXHIBITS | INITIAL REFERENCE | 3 | Exhibit 1 | 3-13-19 Laux Report | 4 | Exhibit 2 | Laux Testimony List | 5 | Exhibit 3 | Laux C.V. | 6 | Exhibit 4 | Laux Fee Schedules | 7 | Exhibit 5 | 3-13-19 Laux Invoice | 8 | Exhibit 6 | Thumb Drive - *Retained by Mr. Bott* | 9 | Exhibit 7 | Deposition Notice | 10 | Exhibit 8 | Michelin Technical Bulletin | 11 | Exhibit 9 | Continental Product Service Information Bulletin | 12 | Exhibit 10 | Cooper Service Bulletin | 13 | Exhibit 11 | Laux Testimony List | 14 |  | 115 | 15 |  |  | 16 |  |  | 17 |  |  | 18 |  |  | 19 |  |  | 20 |  |  | 21 |  |  | 22 |  |  | 23 |  |  | 24 |  |  | 25 |  |  |
|--|--|--|----------|-------------------|---|-----------|---------------------|---|-----------|---------------------|---|-----------|-----------|---|-----------|--------------------|---|-----------|----------------------|---|-----------|--------------------------------------|---|-----------|-------------------|----|-----------|-----------------------------|----|-----------|--|----|------------|-------------------------|----|------------|---------------------|----|--|-----|----|--|--|----|--|--|----|--|--|----|--|--|----|--|--|----|--|--|----|--|--|----|--|--|----|--|--|----|--|--|----|--|--|
| 2  | EXHIBITS   | INITIAL REFERENCE                                |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 3  | Exhibit 1  | 3-13-19 Laux Report                              |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 4  | Exhibit 2  | Laux Testimony List                              |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 5  | Exhibit 3  | Laux C.V.  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 6  | Exhibit 4  | Laux Fee Schedules                               |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 7  | Exhibit 5  | 3-13-19 Laux Invoice                             |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 8  | Exhibit 6  | Thumb Drive - *Retained by Mr. Bott*             |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 9  | Exhibit 7  | Deposition Notice                                |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 10   | Exhibit 8  | Michelin Technical Bulletin                      |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 11   | Exhibit 9  | Continental Product Service Information Bulletin |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 12   | Exhibit 10   | Cooper Service Bulletin                          |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 13   | Exhibit 11   | Laux Testimony List                              |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 14   |  | 115  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 15   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 16   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 17   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 18   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 19   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 20   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 21   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 22   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 23   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 24   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| 25   |  |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |
| <p style="text-align: center;">2</p> <p>1 Pursuant to Notice and the Federal Rules of<br/>2 Civil Procedure, the deposition of LILA F. LAUX,<br/>3 Ph.D., called by Defendant, was taken on Monday,<br/>4 April 15, 2019, commencing at 1:00 p.m., at 216-16th<br/>5 Street, Suite 600, Denver, Colorado, before Patricia<br/>6 M. Wrede, Registered Professional Reporter and Notary<br/>7 Public within and for the State of Colorado.</p> <p>8</p> <p>9                   I N D E X</p> <p>10 DEPOSITION OF LILA F. LAUX, Ph.D.</p> <p>11 EXAMINATION BY:                   PAGE</p> <p>12 Mr. Farrar                   --</p> <p>13 Mr. Bott                   4</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>                                 | <p style="text-align: center;">4</p> <p>1                   P R O C E E D I N G S</p> <p>2                   (Exhibits 1 through 6 marked.)</p> <p>3                   LILA F. LAUX, Ph.D.,</p> <p>4                   being first duly sworn in the above cause, was</p> <p>5                   examined and testified on oath as follows:</p> <p>6                   EXAMINATION</p> <p>7                   BY MR. BOTT:</p> <p>8                   <b>Q</b> Would you tell me your full name, please?</p> <p>9                   <b>A</b> My full name is Lila Carol Fitzgerald</p> <p>10                   Laux.</p> <p>11                   <b>Q</b> And, Doctor -- I call you Doctor. You</p> <p>12                   hold a Ph.D., correct?</p> <p>13                   <b>A</b> I do.</p> <p>14                   <b>Q</b> Do you prefer to be referred to as Doctor</p> <p>15                   or Ms. or --</p> <p>16                   <b>A</b> Well, in professional settings I'm usually</p> <p>17                   Doctor.</p> <p>18                   <b>Q</b> All right. Would this be a professional</p> <p>19                   setting then?</p> <p>20                   <b>A</b> I think so.</p> <p>21                   <b>Q</b> All right then.</p> <p>22                   Dr. Laux, my name is Ed Bott. We have not</p> <p>23                   met before today, but I represent the Goodyear Tire &amp;</p> <p>24                   Rubber Company, and I'm going to be asking you</p> <p>25                   various questions regarding your involvement in this</p>   |  |          |                   |   |           |                     |   |           |                     |   |           |           |   |           |                    |   |           |                      |   |           |                                      |   |           |                   |    |           |                             |    |           |  |    |            |                         |    |            |                     |    |  |     |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |    |  |  |

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| 49<br><br>1 This one says Passat and this one says<br>2 Jetta.<br>3 <b>Q So is the Jetta owner's manual referenced</b><br>4 <b>on Exhibit 6?</b><br>5 A Evidently not.<br>6 <b>Q Is there a reason why you didn't produce</b><br>7 <b>that to me?</b><br>8 A Human error on my part. Sorry.<br>9 <b>Q With regard to your opinion 5, do you hold</b><br>10 <b>an opinion that in fact Goodyear should have issued a</b><br>11 <b>public service bulletin as you describe in opinion 5</b><br>12 <b>in the year 1990?</b><br>13 A Well, it's a product service bulletin, not<br>14 a public service bulletin.<br>15 <b>Q Thank you.</b><br>16 A And do I think they could have? Yes. Do<br>17 I think they should have? I don't think so, no.<br>18 <b>Q All right. Do you think that Goodyear</b><br>19 <b>should have provided a product service bulletin as</b><br>20 <b>the kind you describe in 1995?</b><br>21 A I'm not sure when all the -- this one's<br>22 from Goodyear that was a product bulletin in 2006 in<br>23 which they said they didn't believe they needed to do<br>24 anything about the old tires if I recall.<br>25 <b>Q So would you agree then that you're not</b>   | 51<br><br>1 <b>February 2006, correct?</b><br>2 A It is.<br>3 <b>Q Exhibit 10 is Cooper, and I don't see a</b><br>4 <b>date on the Cooper document. Do you happen to know?</b><br>5 A Let me see if I have it. Mine says 2006,<br>6 Light Truck and Full-Size Spare Tire Service<br>7 Bulletin. It says 2006 in the reference. Service<br>8 Life for Passenger Car, Light Truck and Full-Size<br>9 Spare Tires. Yes.<br>10 <b>Q Okay. So the product service bulletins</b><br>11 <b>that you're aware of from other manufacturers would</b><br>12 <b>be these three that we just identified?</b><br>13 A Well, these three, and I think I have<br>14 others. Let's see what else I've referenced in here.<br>15 I have one from the Japan Automotive Tyre<br>16 Manufacturers Association, Cooper, Michelin,<br>17 Continental, Cooper, Firestone, and then over here,<br>18 this is Cooper too.<br>19 So these are the ones I referenced, yes.<br>20 <b>Q Is the Japanese reference on Exhibit 6?</b><br>21 A It's not, and, you know, it's not properly<br>22 referenced in here either. It just says Japan<br>23 Automotive Tyre Manufacturers Association. So I'm<br>24 not sure which one it is.<br>25 <b>Q So that would be one that I couldn't even</b> |
| 50<br><br>1 <b>critical of Goodyear for not issuing such a product</b><br>2 <b>service bulletin in the year 1994?</b><br>3 A No, I'm not.<br>4 <b>Q All right. As we look at the other</b><br>5 <b>product service bulletins that you mention -- and I</b><br>6 <b>think these had been provided to me.</b><br>7 A The Service Life for Passenger Car from<br>8 Cooper, 2006?<br>9 <b>Q Yeah, I'm just going to run through --</b><br>10 A There are some others.<br>11 <b>Q Let me mark all of these right now. We</b><br>12 <b>might reference them later. There's --</b><br>13 A They're almost all 2006.<br>14 <b>Q I have three of them here.</b><br>15 <b>(Exhibits 8 through 10 marked.)</b><br>16 <b>Q (By Mr. Bott) Doctor, Exhibits 8, 9 and 10</b><br>17 <b>are product service bulletins or technical bulletins</b><br>18 <b>that were provided to me in advance of your</b><br>19 <b>deposition, and I believe all of these are on</b><br>20 <b>Exhibit 6, although I may have -- I didn't have a lot</b><br>21 <b>of time to compare so maybe I missed something.</b><br>22 <b>Exhibit 8 is from Michelin, and it's dated</b><br>23 <b>February 9, 2006, correct?</b><br>24 A Yep, that's the date.<br>25 <b>Q Continental is Exhibit 9, and that's dated</b> | 52<br><br>1 <b>find if I tried to search for it.</b><br>2 A Oh, yeah, you could.<br>3 <b>Q Well, you said -- I thought you said it's</b><br>4 <b>not properly referenced?</b><br>5 A Well, it gives you the name of the Japan<br>6 Automotive Tyre Manufacturers Association, and you<br>7 can go in there and look for tire service bulletin<br>8 and you'll find it.<br>9 <b>Q So these product service bulletins on</b><br>10 <b>aging were first issued evidently in 2006.</b><br>11 A Correct.<br>12 <b>Q And so then is it your opinion that in the</b><br>13 <b>2006 time frame is when Goodyear should have issued a</b><br>14 <b>product service bulletin on the effects of tire aging</b><br>15 <b>like these manufacturers did?</b><br>16 A Well, I think they should have made that<br>17 information public in -- and by 2006 other tire<br>18 manufacturers had made the decision to make that<br>19 information public, so it would have been appropriate<br>20 for Goodyear to make it available at that time as<br>21 well.<br>22 <b>Q And you're aware that Goodyear has issued</b><br>23 <b>product service bulletins on aging and in fact did so</b><br>24 <b>as far back as March of 2006 --</b><br>25 A Yes.                             |

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| 61<br><br>1 information produced about this issue, and Goodyear<br>2 has certainly been aware of all of this information<br>3 as it was being produced.<br>4 MR. BOTT: Move to strike the last part as<br>5 nonresponsive.<br>6 Q (By Mr. Bott) Doctor, I mean, I've tried<br>7 to give you a lot of latitude in your answer, and I'm<br>8 trying not to cut you off, but I would appreciate it<br>9 if you could try to answer my question. If I have<br>10 follow-up questions, I'll ask those.<br>11 A Well, I would say that you -- if you ask a<br>12 pointed question and you only want a response that<br>13 you find favorable, I can't follow your request<br>14 there, so I'll do the best I can to answer your<br>15 questions.<br>16 Q I'm not looking for things that are only<br>17 favorable, because I realize that you probably have<br>18 very little to say that would be favorable to me.<br>19 I'm here to explore your opinions. All right? And I<br>20 only asked you to identify for me the references, and<br>21 you did that, but then you continued to go on and<br>22 provide detail that was not part of my question. I<br>23 know you've been deposed hundreds of times, testified<br>24 at trial hundreds of times --<br>25 A No. | 63<br><br>1 Q March 1994.<br>2 A This says e.g., which means for example,<br>3 right?<br>4 Q That is what it means, yes, thank you.<br>5 And so the 24th week of 1994 is in March?<br>6 A Well, I don't know. We could go back and<br>7 figure it out. See, that's one of the big problems<br>8 with this kind of dating. Why would you say the 24th<br>9 week of '94? I mean, what -- that has no relevance<br>10 to any way that people in the public and people who<br>11 are driving cars think about dates, is it? You don't<br>12 know it either. I don't know it either.<br>13 So if we divide it by 4, we get 6, so 5.<br>14 January, February, March, April, May. It's probably<br>15 May.<br>16 Q Well, what about June? Do you think --<br>17 A Could be June.<br>18 Q -- it might be June?<br>19 A Sure.<br>20 Q Okay. So --<br>21 A I'd have to go back and count every week<br>22 between the 1st of January and the -- whenever this<br>23 tire was manufactured to determine.<br>24 Q And that wouldn't be a challenge for you,<br>25 would it? |
| 62<br><br>1 Q Well, you've testified hundreds of times.<br>2 Okay?<br>3 A By deposition, yes.<br>4 Q Correct. You know what we're doing.<br>5 A Sure I do.<br>6 Q And I'd appreciate it if you could just<br>7 answer my questions.<br>8 A Well, I will answer your questions the<br>9 best way I know how. That's all I can promise.<br>10 Q Okay. Number 6, you say that Goodyear<br>11 should have provided the, quote, born date of the<br>12 tire on both sides of the tire sidewall --<br>13 A Right.<br>14 Q -- e.g., tire manufacture date<br>15 February 1997.<br>16 All right. So this tire was manufactured<br>17 in 1994.<br>18 A 24th week.<br>19 Q And so it's your opinion that when it was<br>20 manufactured in the 24th week of 1994 that Goodyear<br>21 should have put on both sidewalls the wording "Tire<br>22 Manufacture Date" --<br>23 A March.<br>24 Q March?<br>25 A 1994. Something like that.   | 64<br><br>1 A Not particularly, and it wouldn't be a<br>2 challenge for the tire manufacturer either, would it?<br>3 Q And so what they should say is Tire<br>4 Manufacture Date June 1994 in this case.<br>5 A If that's --<br>6 Q Assuming June was the week --<br>7 A Sure.<br>8 Q -- or the week was within the month of<br>9 June.<br>10 A Sure.<br>11 Q All right. Now, you're not saying that<br>12 the manufacturers should hypothetically -- if the<br>13 24th week began on June 16, should they say<br>14 manufactured the week of June 16, 1994?<br>15 A Well, I think I just showed you that I<br>16 think the month and the year is probably adequate.<br>17 Q Okay, good. And so then what would happen<br>18 is that as you roll into a new month, then they<br>19 should change it to be July of 1994.<br>20 A Well, they change the date --<br>21 Q August.<br>22 A -- in the DOT every time -- every week<br>23 evidently.<br>24 Q I'm not arguing. I'm just trying to<br>25 understand.   |

16 (Pages 61 to 64)

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| 65  | 67   |
| <p>1        So they would change it every month,<br/> 2 correct, to --<br/> 3        A    Yeah.<br/> 4        Q    -- to put the --<br/> 5        A    As they change --<br/> 6        Q    -- born date.<br/> 7        A    As they change the DOT date, they would<br/> 8 look and see, okay, what month was it --<br/> 9        Q    And the reason you want it on both sides<br/> 10 is because sometimes the tires are mounted such that<br/> 11 the side with the labeling on it might be to the<br/> 12 inside. Is that what you understand?<br/> 13        A    Well, that's something -- that's<br/> 14 specifically something NHTSA mentioned, yes.<br/> 15        Q    Now, with regard to the label itself, this<br/> 16 born date, do you have a judgment as to what type of<br/> 17 print should be used or what color or where it should<br/> 18 be located?<br/> 19        A    Well, there's plenty of room on the side<br/> 20 of a tire, and lots of things are put on the side of<br/> 21 the tire. I do think this needs to be -- can<br/> 22 certainly be alongside the DOT number. I haven't<br/> 23 analyzed exactly where on the tire it would go. That<br/> 24 would be up to the tire manufacturer to assure that<br/> 25 it's in a location that would be seen and read, could</p>          | <p>1        it should be located, correct?<br/> 2        A    No specific opinion yet, no. I mean, that<br/> 3 would be something --<br/> 4        Q    You don't --<br/> 5        A    -- I would work on with the manufacturer,<br/> 6 because it's their tire.<br/> 7        Q    You don't have an opinion as to the size<br/> 8 of the lettering or the font that should be used,<br/> 9 correct?<br/> 10        A    I do have an opinion. It should follow<br/> 11 the ANSI standard.<br/> 12        Q    And what is that?<br/> 13        A    The ANSI warning standard? Z535.4.<br/> 14        Q    Well, what does it tell me in terms of<br/> 15 size in this context?<br/> 16        A    It tells you for any viewing distance how<br/> 17 large the font should be --<br/> 18        Q    And have you --<br/> 19        A    -- so once you determine how far -- what<br/> 20 the viewing distance is, then you can determine<br/> 21 easily what the font size should be. And I haven't<br/> 22 done that. That's up to the manufacturer to do.<br/> 23        Q    Okay. So you haven't done it.<br/> 24        You say on the next page: Had Mr. Bueser<br/> 25 known this tire -- it says "tired" but it clearly</p>   |
| 66  | 68   |
| <p>1        be seen and read.<br/> 2        Do I think it should be colored? It would<br/> 3 be dandy if it could be. I don't think it's<br/> 4 reasonable to make it colored.<br/> 5        Q    All right.<br/> 6        A    Do I think the print should be larger than<br/> 7 the print that's on the DOT number? That would be a<br/> 8 very good thing because that's quite small. So we<br/> 9 could determine by looking at the ANSI warning<br/> 10 standard what distance we think people are going to<br/> 11 be from the tire, and we can determine what the font<br/> 12 size should be from that. So --<br/> 13        Q    Well --<br/> 14        A    -- there are a number of things that the<br/> 15 manufacturer of the tire would need to determine<br/> 16 before putting this message on the side of a tire.<br/> 17        Q    All right. So then in terms of your<br/> 18 opinion, as we're here today to talk about, it's your<br/> 19 opinion that the born date should be on the sidewall<br/> 20 of the tire on both sides of the tire?<br/> 21        A    Well, that's what the -- that's what this<br/> 22 says.<br/> 23        Q    I'm just trying to run through it with<br/> 24 you. I understand that's what it says.<br/> 25        But you don't have an opinion as to where</p> | <p>1        should be "tire" -- was approximately 20 years old,<br/> 2 it is likely he would not have purchased it.<br/> 3        What's the basis of that conclusion?<br/> 4        A    Well, I think he would have recognized<br/> 5 that it was likely to not be still a very good tire<br/> 6 after -- if it was 20 years old.<br/> 7        Q    Have you read anything that leads you to<br/> 8 conclude that Mr. Bueser would not have purchased the<br/> 9 tire had he -- had the born-on date been on it?<br/> 10        A    Not from Mr. Bueser, but I've read other<br/> 11 data, reports about people purchasing tires, and<br/> 12 they -- you know, most people say they wouldn't want<br/> 13 a 20-year-old tire.<br/> 14        Q    What other data?<br/> 15        A    Well, in some of those articles that I<br/> 16 reference, like with Kim and -- Cowley, Kim and<br/> 17 Wogalter and Kalsher, Wogalter and Laughery.<br/> 18        Q    Do you have an opinion on whether other<br/> 19 people would -- well, strike that.<br/> 20        Do you know when Mr. Bueser purchased<br/> 21 these tires?<br/> 22        A    Evidently about a year and a half before<br/> 23 the accident.<br/> 24        Q    Do you know from where he purchased them?<br/> 25        A    It's not absolutely certain whether he</p> |

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| <p>73</p> <p>1 appreciate having that on their tire? Would you<br/>2 agree with that?</p> <p>3 A I would agree that some owners might not<br/>4 want red or white or yellow print on the sides of<br/>5 their tires.</p> <p>6 Q And with regard to your prototype, you go<br/>7 on to state that, "The prototype warning should be<br/>8 validly tested with a representative user group to<br/>9 determine whether it can be seen and read and whether<br/>10 it is understood."</p> <p>11 You have not done that testing validation,<br/>12 have you?</p> <p>13 A Well, I can't stamp tires, so, no, I<br/>14 haven't.</p> <p>15 Q All right. And are you aware of anyone<br/>16 who has undertaken that testing?</p> <p>17 A I don't think any tire manufacturer has<br/>18 attempted to stamp this into their tire, no.</p> <p>19 Q Are you aware of anyone, even independent<br/>20 of a tire manufacturer, who has attempted to undergo<br/>21 this testing -- or undertake this testing?</p> <p>22 A There is no way anyone can undergo this<br/>23 testing unless they have the capacity to stamp a<br/>24 tire.</p> <p>25 Q Okay. So the answer is --</p>  | <p>75</p> <p>1 A I certainly wish it were, but do I expect<br/>2 that it would have been? No.</p> <p>3 Q Okay. And why is it that you expect it<br/>4 would not have been?</p> <p>5 A Well, I think in June of 1994 there was<br/>6 not a general consensus among all of the tire<br/>7 manufacturers about this issue.</p> <p>8 Q And so had it not been included back in<br/>9 June of 1994, you wouldn't have been critical of<br/>10 Goodyear or any tire manufacturer for not putting it<br/>11 on there because there was no recognized consensus in<br/>12 the industry at that time.</p> <p>13 A Well, would I be critical? Would I think<br/>14 that they probably already knew about this based on<br/>15 the early -- wait a minute. Let me give my answer.</p> <p>16 Q I was.</p> <p>17 A No, you weren't. You were getting ready<br/>18 to interrupt me.</p> <p>19 So, you know, this issue was already known<br/>20 in the community as recognized by VW putting it on<br/>21 their car, but do I -- would I be critical? I would<br/>22 be critical of anybody who knew something about a<br/>23 hazard and didn't tell people. Do I -- do I<br/>24 understand why this wasn't yet placed on the tire?</p> <p>25 Yes.</p>   |
| <p>74</p> <p>1 A Has to be no, right?</p> <p>2 Q -- there is no such testing.</p> <p>3 A Of course not.</p> <p>4 Q All right. And then you state, "Once a<br/>5 warning is in place, data should be collected on<br/>6 accidents to determine whether the warning is being<br/>7 effective."</p> <p>8 A That's standard.</p> <p>9 Q And this is obviously stating the obvious,<br/>10 but there clearly is no data that you're aware of<br/>11 that goes to the effectiveness of such a prototype<br/>12 warning, correct?</p> <p>13 A Well, since this prototype warning hasn't<br/>14 been stamped into any tires that I'm aware of,<br/>15 clearly there's not.</p> <p>16 Q All right.</p> <p>17 A But that's standard practice for any<br/>18 manufacturer, is to collect data like this to<br/>19 determine if something is effective or not, a warning<br/>20 is effective or not.</p> <p>21 Q And clearly, given that this relates to<br/>22 stamping on the tire at the time of manufacture, I<br/>23 assume it's your opinion that this prototype warning<br/>24 should have been on this tire at the time it was<br/>25 manufactured in June of 1994?</p> | <p>76</p> <p>1 Q Yeah, so in terms of -- and I want to<br/>2 understand whether -- is it your opinion to a<br/>3 reasonable degree of professional certainty that in<br/>4 this case this tire was unsafe as manufactured in<br/>5 June of 1994 by virtue of the fact that it did not<br/>6 have this prototype warning on it?</p> <p>7 A Well, actually I do believe that it was<br/>8 unsafe not to have a -- it doesn't have to be this as<br/>9 the prototype -- not to have this information about<br/>10 the age that they -- the tire was manufactured so<br/>11 that people could determine how old it was, but I<br/>12 understand that at that time tire manufacturers were<br/>13 not warning about this issue and they were still<br/>14 resistant to the idea, I believe, that tires aged<br/>15 out.</p> <p>16 So am I surprised that it wasn't on there?<br/>17 No. Do I wish it had been on there? Yes. Am I<br/>18 critical? Well, I don't know whether I would say I'm<br/>19 critical or not. I understand why it's not on there.</p> <p>20 Q And without going through each of them<br/>21 individually, isn't it true that the product service<br/>22 bulletins we identified, the NHTSA study you've<br/>23 referenced, the Baldwin study that you've referenced,<br/>24 and probably others, all of those relate to activity<br/>25 that was ongoing in the mid 2000's?</p> |

19 (Pages 73 to 76)

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| <p>77</p> <p>1 A Yes, a lot of it was -- started in the<br/>2 early 2000's, yes.</p> <p>3 Q <b>And is there anything other than the<br/>4 Volkswagen reference that you mentioned on your<br/>5 Appendix B that predates all of that, that goes back<br/>6 into the 1990's and deals with this issue of aging?</b></p> <p>7 A I bet you I didn't put it in that list,<br/>8 but I do have a bunch of old operator's manuals, and<br/>9 just like the old Jetta manual, many of them talk<br/>10 about replace -- they're all European cars. All<br/>11 European cars only. I never saw an it in an American<br/>12 car, but I did see it in other European cars that --</p> <p>13 Q <b>Which European cars?</b></p> <p>14 A I'm not sure, but I can certainly get you<br/>15 those.</p> <p>16 Q <b>Well, as you sit here today, can you<br/>17 identify any owner's manual from --</b></p> <p>18 A BMW I think was one of them.</p> <p>19 Q <b>BMW what year?</b></p> <p>20 A Well, in the early 1900's -- 1990's, but I<br/>21 can't tell you exactly for sure which year, but, you<br/>22 know, I did cite that one because I liked the<br/>23 forthright way in which they talked about tires and<br/>24 spare tires.</p> <p>25 Q <b>Where did you cite the BMW?</b></p>                   | <p>79</p> <p>1 statement based again solely on the other references<br/>2 that you've told me about in this deposition?</p> <p>3 Does that make sense to you what I'm<br/>4 asking?</p> <p>5 A It does, but there's a lot of things that<br/>6 I said it was foreseeable to Goodyear about. So, you<br/>7 know, they talk about reasons to replace a tire, and<br/>8 aging is not one of them, but it was foreseeable to<br/>9 Goodyear that a tire could be 20 years old and not<br/>10 have any of those -- that's what this statement is<br/>11 all about -- not have any of those characteristics<br/>12 that they say are reason to replace a tire.</p> <p>13 So they could foresee that a tire could<br/>14 get to be 20 years old and not have any of those<br/>15 cracks, bulges, tread worn down to a minimum depth or<br/>16 damage caused by underinflation or overloading, but<br/>17 that it would be 20 years old and that based on the<br/>18 NHTSA information and the other information, Baldwin<br/>19 and so forth, that being 20 years old alone meant<br/>20 that it was more likely to lose tread.</p> <p>21 Q <b>Now, do those references say that just<br/>22 being 20 years old makes it more likely to lose<br/>23 tread?</b></p> <p>24 A If you look at the -- was more likely to<br/>25 fail, I guess I should say, and typically that</p> |
| <p>78</p> <p>1 A I didn't.</p> <p>2 Q <b>Oh.</b></p> <p>3 A I cited this one, which is what I said<br/>4 that I thought -- this is from a Jeep in 2013 that<br/>5 was in the owner's manual, and I thought that was an<br/>6 excellent warning.</p> <p>7 Q <b>So other than the European owner's manuals<br/>8 that you're unable to specifically identify, are you<br/>9 aware of any study or reference or work being done<br/>10 here in the United States in the 1990's that deals<br/>11 with this issue? Can you cite me to any?</b></p> <p>12 A Well, I think what NHTSA started the study<br/>13 in 2002.</p> <p>14 Q <b>All right. So that would be the earliest<br/>15 that you're aware of?</b></p> <p>16 A That's the earliest one that I know of in<br/>17 the United States, yes.</p> <p>18 Q <b>And turning then to number 8, you refer to<br/>19 a couple of things there that in your judgment would<br/>20 be foreseeable to Goodyear regarding a tire 20 years<br/>21 old. And I don't need to get too deep into the weeds<br/>22 on this. I just want to know, is there anything here<br/>23 specifically from Goodyear, from a Goodyear witness,<br/>24 from a Goodyear document, that leads you to conclude<br/>25 this was foreseeable to Goodyear, or is this</b></p> | <p>80</p> <p>1 failure is detreading.</p> <p>2 But if you look at the graph in the NHTSA<br/>3 reports, if you look at John Baldwin's data, sure, it<br/>4 does say that they are more likely to fail the older<br/>5 they get after six years old.</p> <p>6 Q <b>Okay. But it doesn't say that they're<br/>7 more likely to lose tread.</b></p> <p>8 A I don't recall whether they said that or<br/>9 whether they just said fail.</p> <p>10 Q <b>And is the NHTSA data on the Ford<br/>11 Firestone tires?</b></p> <p>12 A No. That was one of the impetus for doing<br/>13 it, but they did research on -- the 2002 study was on<br/>14 tire failure, period.</p> <p>15 Q <b>All right.</b></p> <p>16 A Tire failure, period.</p> <p>17 See, when they did this research report to<br/>18 Congress in 2007 on tire aging, that was not just on<br/>19 the Firestone tires.</p> <p>20 Q <b>Okay. Are you aware of -- and I apologize<br/>21 if I've asked you this, but -- and sometimes I tend<br/>22 to jump around and I forget whether I've asked you<br/>23 things before or not.</b></p> <p>24 Are you aware of any manufacturer that<br/>25 puts the born date on their tire?</p>   |

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| <p>81</p> <p>1 A No, I'm not.</p> <p>2 Q Are you aware of any manufacturer that<br/>3 puts any type of a warning regarding the aging on<br/>4 their tire?</p> <p>5 A No. They have some warnings on their<br/>6 tires but not about aging.</p> <p>7 Q All right. And do we agree that NHTSA has<br/>8 never recommended that such a warning about aging be<br/>9 put on the tires, have they?</p> <p>10 A I don't think they have, no.</p> <p>11 Q And do we agree that NHTSA has never<br/>12 recommended that a born date be put on tires, have<br/>13 they?</p> <p>14 A They haven't, although they have<br/>15 recognized the difficulty that people have<br/>16 determining the manufacture date of tires based on<br/>17 the DOT number, but they haven't made any effort to<br/>18 change that.</p> <p>19 Q And do we agree that there is no federal<br/>20 regulation that requires placement of an age-related<br/>21 warning on the tires?</p> <p>22 A There's not.</p> <p>23 Q I want to ask you about number 9 if I may.</p> <p>24 A Okay.</p> <p>25 Q You say, "Goodyear's failure to adequately</p>   | <p>83</p> <p>1 then when he went into Kearney's to have those tires<br/>2 put on his vehicle, they would have known about it,<br/>3 and they would have said to him, look, these tires<br/>4 are 20 years old, we don't want to mount these tires.<br/>5 Like Discount Tire won't put a tire 10 years old or<br/>6 even service a tire 10 years old anymore because they<br/>7 recognize the hazard. They're probably one of the<br/>8 biggest maintainers in the U.S.<br/>9 So if this had gotten out to places like<br/>10 Kearney's and other places, smaller places --<br/>11 Discount's a very big place. They do -- have had<br/>12 problems and so they recognize the issue, but<br/>13 someplace like Kearney needs to get the information,<br/>14 and this could be put out by Goodyear.</p> <p>15 Q Well, other than the product service<br/>16 bulletins, are you saying that there is some other<br/>17 means by which that should have been communicated, or<br/>18 is it just through the product service bulletins?</p> <p>19 A Well, it's my understanding that most tire<br/>20 manufacturers just send the tire service bulletins to<br/>21 places where their tires are bought in large<br/>22 quantities.</p> <p>23 Q And that's sufficient, correct, in your<br/>24 judgment?</p> <p>25 A Well, it would be better if they were sent</p> |
| <p>82</p> <p>1 warn and instruct vehicle owners and maintainers and<br/>2 drivers about the hazards associated with driving at<br/>3 highway speeds on a tire more than 10 years old<br/>4 created an unreasonably dangerous situation, which<br/>5 precipitated the injury/death accident."</p> <p>6 I take that to mean that you're talking<br/>7 about the accident that happened here to Mr. Loveland<br/>8 and Mr. Summers?</p> <p>9 A Yes. It wasn't a death, though, actually.</p> <p>10 Q Yes. And when you say "Goodyear's failure<br/>11 to adequately warn and instruct vehicle owners," how<br/>12 would in your judgment Goodyear have adequately<br/>13 warned and instructed vehicle owners? Would that<br/>14 have been through the labeling on the tire that we've<br/>15 talked about?</p> <p>16 A Well, that would have been one way, but of<br/>17 course I'm not talking about that here.</p> <p>18 Q Okay. What are you talking about here?</p> <p>19 A Well, I'm talking about the fact that if<br/>20 they had notified all the tire places like Kearney's<br/>21 and everybody who -- you know, who has -- who<br/>22 maintains their tires, and certainly it could have<br/>23 been put in the driving -- wherever people go to get<br/>24 their driver's licenses renewed, all those kinds of<br/>25 locations, to make this information widely known,</p> | <p>84</p> <p>1 out to places like Kearney's and other smaller groups<br/>2 of people who also deal with tires, mount and service<br/>3 tires, and there are plenty of them. And I recognize<br/>4 that, you know, locating all of them is not<br/>5 necessarily simple, but they are all registered with<br/>6 the state typically and so they can be located. So<br/>7 if you want to make this information public, if you<br/>8 want to make people aware of it, you could certainly<br/>9 have public service announcements on the radio and on<br/>10 TV.</p> <p>11 Q Well, I know you could do a lot of things.<br/>12 What --</p> <p>13 A Sure you could, and it's an issue that you<br/>14 should do because it's clearly one that the driving<br/>15 public is not aware of.</p> <p>16 Q Well, but, you know, Dr. Laux, I'm trying<br/>17 to differentiate between things that you think would<br/>18 be a good idea versus your opinions in this case.<br/>19 Okay? And so I --</p> <p>20 A My opinion is --</p> <p>21 Q So I need --</p> <p>22 MR. FARRAR: Let him finish the question.</p> <p>23 Q (By Mr. Bott) I need to understand how is<br/>24 it that you think Goodyear failed to provide adequate<br/>25 information -- or failed -- I'm sorry, failed to</p>  |

21 (Pages 81 to 84)

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| <p style="text-align: right;">101</p> <p>1 <b>does not include this warning?</b></p> <p>2 A Well, you know, if -- this is -- you're<br/>3 asking me a funny question.</p> <p>4 So, you know, if a product has a hazard<br/>5 that needs to be warned about, that doesn't<br/>6 necessarily make the product unsafe; it makes the use<br/>7 of it unsafe for the user who needs the warning. So<br/>8 I know that sounds very circular, but what I'm trying<br/>9 to say is I do think every tire needs to have this<br/>10 warning on it.</p> <p>11 <b>Q And so then every tire would be unsafe for<br/>12 use to the general public without this warning.</b></p> <p>13 A Well, after six years, yes.</p> <p>14 <b>Q Well --</b></p> <p>15 A It's not unsafe until it starts to be old<br/>16 and have this potential for failure, but it is unsafe<br/>17 in the sense that people need to know this<br/>18 information when they buy a tire or when they put a<br/>19 tire on their car or when they buy a used car and<br/>20 look to see something about the tires or get the --<br/>21 get the spare tire out of their trunks. They need<br/>22 this information every time those things happen.</p> <p>23 <b>Q And so then as soon as the tire hits six<br/>24 years, it becomes unsafe.</b></p> <p>25 A Well, the tire becomes unsafe, yes.</p> | <p style="text-align: right;">103</p> <p>1 A Well, by like these other people who have<br/>2 written papers about it, like Michael Wogalter and<br/>3 Kalsher, Michael Kalsher, and Kenneth Laughery. All<br/>4 my colleagues.</p> <p>5 <b>Q Am I correct that you have no testing<br/>6 studies or surveys that are relevant to a vehicle<br/>7 owner's decision to replace or inspect tires based on<br/>8 a sidewall expiration date?</b></p> <p>9 A Well, since there is no sidewall<br/>10 expiration date, I don't think there could be any<br/>11 studies on that.</p> <p>12 <b>Q Okay.</b></p> <p>13 A There are those studies that I've cited to<br/>14 you several times that talk about how people don't<br/>15 understand that the DOT number has a date of<br/>16 manufacture on it.</p> <p>17 <b>Q In the study of human factors, is there an<br/>18 accepted methodology for prioritizing risks<br/>19 associated with the use of various products?</b></p> <p>20 A Well, there is -- there are methodologies<br/>21 for doing that that require that the manufacturer<br/>22 have identified the hazards and the consequences of<br/>23 the hazards, so you have a table, if you want to call<br/>24 it that, where you have the probabilities on one axis<br/>25 and the consequences on another axis, and those that</p>   |
| <p style="text-align: right;">102</p> <p>1 <b>Q All right. Okay. And that's irrespective<br/>2 of the service conditions of that tire. It's just in<br/>3 your judgment, chronological age alone, once a tire<br/>4 hits six years of age, if it doesn't have this<br/>5 prototype warning on it, it is unsafe. Is that<br/>6 right?</b></p> <p>7 A Well, you know, that's not the way I think<br/>8 about it, but it is unsafe after six years with or<br/>9 without the warning.</p> <p>10 <b>Q Okay.</b></p> <p>11 MR. BOTT: Let me take a break. Okay?</p> <p>12 THE DEPONENT: Sure.</p> <p>13 (Recess from 3:14 p.m. to 3:20 p.m.)</p> <p>14 <b>Q (By Mr. Bott) Dr. Laux, has your opinions<br/>15 on aging and labeling, has that been peer reviewed by<br/>16 anyone?</b></p> <p>17 A Aging and labeling? You mean tire aging?</p> <p>18 <b>Q Your opinions that you're --</b></p> <p>19 A No.</p> <p>20 <b>Q -- here -- okay.</b></p> <p>21 <b>Is your opinions that you've given here<br/>22 today, is that generally accepted in the scientific<br/>23 community?</b></p> <p>24 A Well, in the human factors community, yes.</p> <p>25 <b>Q By whom?</b></p>  | <p style="text-align: right;">104</p> <p>1 come -- fall into the high probability -- low -- that<br/>2 fall into the high consequences section typically are<br/>3 the ones that we want to put on product warnings<br/>4 about.</p> <p>5 So they'll be -- when you look at one of<br/>6 these tables, it will be yellow, green and red<br/>7 depending, you know, the hazard and the probability<br/>8 and the consequences. Those that are in the red zone<br/>9 will be the ones that you want to put on product<br/>10 warnings about. Mainly you would like to design<br/>11 those hazards out if you can, but if you can't, then<br/>12 those are the ones that you would warn about.</p> <p>13 <b>Q And is there potential risks associated<br/>14 with including too many warnings on a product?</b></p> <p>15 A Oh, sure. Everybody likes to talk about<br/>16 the over-warning and the issue that people stop<br/>17 paying attention to warnings --</p> <p>18 <b>Q You don't --</b></p> <p>19 A -- because you put so many on there.<br/>20 That's an issue that's been floated around in the<br/>21 public for a long time. But if you do the kind of<br/>22 analysis that I was just talking about, you would<br/>23 either -- you would determine one of two things.<br/>24 Either your product is too dangerous to let the<br/>25 public have access to it because it needs to have</p> |

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| <p>105</p> <p>1 this long laundry list of dangers and warnings, or<br/>2 you would figure out that there are a few things that<br/>3 are very serious issues, hazards, associated with use<br/>4 of the product and those are the things you would<br/>5 want to put the warnings about.</p> <p>6 <b>Q Have you done this analysis of the two</b><br/>7 <b>columns and the consequences and the risks as to</b><br/>8 <b>tires?</b></p> <p>9 A I can't do that. Manufacturers of tires<br/>10 can do that, but I can't do that.</p> <p>11 <b>Q And you cannot do that because of what?</b></p> <p>12 A I wouldn't have all the information I<br/>13 would need to do it. Tire manufacturers should do<br/>14 it.</p> <p>15 <b>Q And your opinion here that a warning would</b><br/>16 <b>have made a difference as I understand it is based on</b><br/>17 <b>the conclusion that had there been a warning, then</b><br/>18 <b>the tires never would have been installed.</b></p> <p>19 A I believe that's true. I believe if<br/>20 Kearney had understood that a 20-year-old tire was<br/>21 not safe to be driven on the road, I don't think they<br/>22 would have installed it. I mean, I know that's the<br/>23 decision that Discount Tires has taken.</p> <p>24 <b>Q I got that. Okay. I just want to</b><br/>25 <b>understand the causation part of it.</b></p>                | <p>107</p> <p>1 <b>right to rely on the recommendations of the vehicle</b><br/>2 <b>manufacturer as contained in that owner's manual?</b></p> <p>3 A In what way rely on it?</p> <p>4 Q Well, as an example -- just let's focus on<br/>5 the issue we're talking about in terms of tire<br/>6 service life and your thought that tires 10 years old<br/>7 should be taken out of service and replaced.</p> <p>8 Is the tire manufacturer justified in<br/>9 relying on the vehicle manufacturer's instructions on<br/>10 that issue?</p> <p>11 A I don't know that the vehicle manufacturer<br/>12 gives any instructions on the issue. The vehicle<br/>13 manufacturer has said that they think tires should be<br/>14 replaced after six years. Can the tire manufacturers<br/>15 rely on that? I don't know how they would rely on<br/>16 that.</p> <p>17 I'm not understanding what you're asking<br/>18 me. Can they rely on that being enough to warn<br/>19 people about aging tires? Is that what you're asking<br/>20 me?</p> <p>21 Q Well, I guess I was trying to get, you<br/>22 talked about the Volkswagen owner's manuals, and you<br/>23 point to that statement by Volkswagen, and I think<br/>24 you mentioned other vehicle manufacturers, about tire<br/>25 life --</p> |
| <p>106</p> <p>1 <b>Do you think there's any risk that with a</b><br/>2 <b>born date or with -- not the born date but with your</b><br/>3 <b>labeling of the prototype warning, do you think</b><br/>4 <b>there's any risk that consumers will falsely rely on</b><br/>5 <b>that expiration date as more or less a type of</b><br/>6 <b>warranty that the tire is good for six years or for</b><br/>7 <b>10 years?</b></p> <p>8 A Well, they get a warranty with their tire<br/>9 when they buy it, and I'm not sure how many years the<br/>10 warranty is for, but, no, I don't think so, because<br/>11 this says specifically old tires that are more than<br/>12 10 years old are likely to do that. It doesn't say<br/>13 that, you know, you need to disregard the other<br/>14 problems that you might have with your tire, like<br/>15 tread being too worn out or bulges or cracks in the<br/>16 side of your tire.</p> <p>17 Q So you don't think that some may think<br/>18 that the tire is safe for 10 years --</p> <p>19 A No.</p> <p>20 Q -- regardless of those things?</p> <p>21 A I don't think so. There's nothing in the<br/>22 warning that would indicate to anybody that otherwise<br/>23 the tire is safe, that if it isn't 10 years old it's<br/>24 safe. There's nothing in there that indicates that.</p> <p>25 Q Okay. Do the tire manufacturers have a</p> | <p>108</p> <p>1 A Right.</p> <p>2 Q -- and replacing the tires.</p> <p>3 I'm trying to get an understanding, if --</p> <p>4 you know, let's assume hypothetically if there was a</p> <p>5 prototype warning on the tire versus information in</p> <p>6 the owner's manual regarding tire service life, which</p> <p>7 trumps?</p> <p>8 A Well, I think that most people would</p> <p>9 recognize that the tire manufacturers know more about</p> <p>10 the date that their tire is likely to expire -- and</p> <p>11 I'm using that word in quotation marks -- than a</p> <p>12 vehicle manufacturer.</p> <p>13 So if vehicle manufacturers say, as most</p> <p>14 of them do, replace your tires after six years, and</p> <p>15 tires [sic] say, well, you know, tires may be good up</p> <p>16 to 10 years, I think that the tire -- the person who</p> <p>17 owns the tire has to say, well, the tire manufacturer</p> <p>18 says I can use this tire up to 10 years, so ...</p> <p>19 Q Does -- do you know what type of vehicle</p> <p>20 was involved in this case?</p> <p>21 A It was a light truck, a pickup, half-ton</p> <p>22 pickup.</p> <p>23 Q Who made it?</p> <p>24 A Gosh, you know, I don't know. Chevy or</p> <p>25 Ford, but I don't recall which one.</p>              |

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| <p style="text-align: right;">109</p> <p>1   <b>Q</b> It was Chevrolet.<br/>   2   A Was it?<br/>   3   <b>Q</b> So General Motors.<br/>   4   A M-hm.<br/>   5   <b>Q</b> Does General Motors include language in<br/>   6   their manuals about tire service life?<br/>   7   A I believe they do, but I can't say they do<br/>   8   on every vehicle. This was an old 2003 truck, I<br/>   9   think.<br/>   10   <b>Q</b> Do you know when they started including<br/>   11   that language?<br/>   12   A No, I don't. I have known. I just don't<br/>   13   recall at the moment.<br/>   14   <b>Q</b> All right. If General Motors did not<br/>   15   include language on tire service life, did not<br/>   16   include a recommendation as you've talked about here<br/>   17   today of either six or 10 years, in their owner's<br/>   18   manual for a 2003 Chevrolet pickup, would you be<br/>   19   critical of that?<br/>   20   A Well, most of the American manufacturers<br/>   21   of vehicles have European counterparts for the<br/>   22   manufacture of their vehicles, and in those owner's<br/>   23   manuals, the warning about tires shows up much<br/>   24   earlier. I don't know how much earlier than 2003, so<br/>   25   I can't say.</p> | <p style="text-align: right;">111</p> <p>1   work with manufacturers.<br/>   2   <b>Q</b> Okay. And do you understand that NHTSA<br/>   3   looked at the possibility of revising the date on<br/>   4   tires as recently as 2015 --<br/>   5   A Yes.<br/>   6   <b>Q</b> -- and decided not to make any<br/>   7   recommendations for changes in that regard?<br/>   8   A Yes, I do.<br/>   9   <b>Q</b> Going through your report, you state here<br/>   10   on the bottom of page 1 that you were the lead<br/>   11   researcher on three contracts with General Motors and<br/>   12   four contracts with the AAA Foundation to examine<br/>   13   human factors issues associated with capabilities of<br/>   14   drivers, warnings and instructions, and the location<br/>   15   of controls and displays.<br/>   16   A Yep.<br/>   17   <b>Q</b> Tell me what that work was all about, and<br/>   18   when did you do that?<br/>   19   A Well, you'll see in my C.V. when we did<br/>   20   those reports, and those reports were done in the<br/>   21   early '90s, as I recall. We had three contracts, as<br/>   22   I said, with General Motors and the information that<br/>   23   we --<br/>   24   <b>Q</b> This was Rice University --<br/>   25   A Right.</p>   |
| <p style="text-align: right;">110</p> <p>1   <b>Q</b> So you'd have no opinion on that.<br/>   2   A I don't.<br/>   3   <b>Q</b> Have you ever designed a consumer product?<br/>   4   A No.<br/>   5   <b>Q</b> You have never worked for a tire company,<br/>   6   have you?<br/>   7   A No.<br/>   8   <b>Q</b> And your only professional experience<br/>   9   relating to tires is an expert?<br/>   10   A Well, the only professional experience<br/>   11   related to tires in this regard, yes, uh-huh.<br/>   12   <b>Q</b> You have done no studies that directly<br/>   13   relate to tires, have you?<br/>   14   A I think I've said that. No.<br/>   15   <b>Q</b> I know we've asked around this, but I<br/>   16   don't know if I've asked you this question. You have<br/>   17   not written any articles on the subject of tire<br/>   18   service life or tire aging, have you?<br/>   19   A I have not.<br/>   20   <b>Q</b> And you have not personally written a<br/>   21   warning that has gone on a product that's been sold<br/>   22   to the public, have you?<br/>   23   A I don't do that.<br/>   24   <b>Q</b> So that answer is no?<br/>   25   A That answer is no, that is not the way I</p>   | <p style="text-align: right;">112</p> <p>1   <b>Q</b> -- that had the contracts?<br/>   2   A Rice got the contract and I was -- but it<br/>   3   was me that wrote the proposal. And so when the<br/>   4   contract was given to Rice, Rice paid me for the<br/>   5   work.<br/>   6   <b>Q</b> Okay.<br/>   7   A In other words, General Motors paid Rice<br/>   8   and Rice paid me.<br/>   9   <b>Q</b> And what specifically was the scope of the<br/>   10   human factors analysis?<br/>   11   A Well, I was just about to tell you.<br/>   12   <b>Q</b> Right, and I apologize for cutting you<br/>   13   off.<br/>   14   A The first study was to look at warnings<br/>   15   and instructions in owner's manuals and on vehicles,<br/>   16   for instance on the jack in the back, on the<br/>   17   radiator, things like that. So we looked at -- we<br/>   18   identified a series of accidents that occurred that<br/>   19   didn't have to do with driving, you know, where you<br/>   20   had a collision, someone ran into somebody else or<br/>   21   turned into an intersection and got hit. These were<br/>   22   accidents that were the result of something to do<br/>   23   with the car.<br/>   24   So we did a -- we did a study of, I don't<br/>   25   know, 20 or 25 owner's manuals from vehicles that</p> |

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| <p style="text-align: right;">117</p> <p>1 A Exactly, that's right.<br/>   2 Q <b>Yeah, fair enough.</b><br/>   3 Dr. Laux, are you familiar with the Pechac<br/>   4 case?<br/>   5 A Well, that's such an unusual name, I<br/>   6 remember the name but I don't -- who was -- who hired<br/>   7 me?<br/>   8 Q <b>I don't know. Do you -- can you find</b><br/>   9 <b>it -- I can figure out who hired you probably, but do</b><br/>   10 <b>you see it on your list?</b><br/>   11 A It should be on here. I think I've given<br/>   12 a deposition in that case, but, I mean, it's going to<br/>   13 take me some time to go through these one by one. Do<br/>   14 you really want me to do that?<br/>   15 Q <b>It was in 2018 that you would have been</b><br/>   16 <b>deposed.</b><br/>   17 A Okay. Well, then I can just go through<br/>   18 those.<br/>   19 I don't see it, which means I probably<br/>   20 went home and completely forgot about it and didn't<br/>   21 get it on here.<br/>   22 Q <b>How about Exhibit 11? Do you see it on</b><br/>   23 <b>there?</b><br/>   24 A Well, if it isn't on here, it wouldn't be<br/>   25 on there.</p>   | <p style="text-align: right;">119</p> <p>1 <b>about tire aging?</b><br/>   2 A No, it wouldn't surprise me, but I don't<br/>   3 know. I just got through telling you I don't know<br/>   4 what it was about.<br/>   5 MR. BOTT: Off the record.<br/>   6 (Discussion off the record.)<br/>   7 Q <b>(By Mr. Bott) This Pechac case was pending</b><br/>   8 <b>in the Superior Court of Arizona.</b><br/>   9 A Okay.<br/>   10 Q <b>Does that help refresh your memory at all?</b><br/>   11 A No, not at all. You seem to have a copy<br/>   12 of my deposition, so if you could tell me who --<br/>   13 Q <b>I have parts of it. Yeah, let me tell</b><br/>   14 <b>you --</b><br/>   15 A -- who was the attorney who hired me, that<br/>   16 might --<br/>   17 Q <b>I don't know if I have that front page. I</b><br/>   18 <b>only printed out parts of it.</b><br/>   19 A I see.<br/>   20 Q <b>But I believe his name began with an S.</b><br/>   21 <b>That really narrows it down, doesn't it?</b><br/>   22 A Really a whole lot, yes.<br/>   23 Q <b>Yeah, I'm a big help.</b><br/>   24 I can maybe figure that out for you. Hold<br/>   25 on.</p>  |
| <p style="text-align: right;">118</p> <p>1 Q Okay. Has your testimony ever been barred<br/>   2 from any court?<br/>   3 A I don't know about barred. I've never<br/>   4 been excluded that I know of for not being qualified.<br/>   5 I have been -- I was not allowed to testify in a<br/>   6 trial in New Orleans because the judge ruled that<br/>   7 although I was qualified, the jury didn't need to<br/>   8 hear human factors testimony from either side.<br/>   9 Q Are you aware of the fact that your<br/>   10 testimony was ruled to be excluded under Daubert --<br/>   11 are you familiar with Daubert?<br/>   12 A Sure.<br/>   13 Q Were you aware that your testimony was<br/>   14 excluded under a Daubert-type analysis in the Pechac<br/>   15 case?<br/>   16 A No, I wasn't.<br/>   17 Q Pechac, it was a matter of Pechac versus<br/>   18 Goodyear, and you were deposed on June 18, 2018.<br/>   19 A Well, that I might remember, but I never<br/>   20 knew that I was not -- that I was excluded. No one<br/>   21 told me that.<br/>   22 Q Do you remember what the Pechac case was<br/>   23 about?<br/>   24 A No, I don't.<br/>   25 Q Would it surprise you to learn that it was</p> | <p style="text-align: right;">120</p> <p>1 Matthew Malia (phonetic)? Does that ring<br/>   2 a bell?<br/>   3 A No.<br/>   4 Q With regard to your case list, if we could<br/>   5 get -- I guess Exhibit 2 would be the most<br/>   6 comprehensive for what I wanted to --<br/>   7 A Well, the newer one.<br/>   8 Q Yeah, right. And so let me just pick up<br/>   9 in 2018, because I can't really figure out which of<br/>   10 these might have been done after the Pechac<br/>   11 deposition. Okay?<br/>   12 So this one of Everhart versus Reckitt<br/>   13 Benckiser, Southern District of Florida, do you know<br/>   14 what that case was about, what the product was?<br/>   15 A It was -- I'm pretty sure -- well, I don't<br/>   16 know if that's the one that had to do with the side<br/>   17 air curtain or not. That's one I did for Sean Cleary<br/>   18 that I did on --<br/>   19 Q Side air curtain?<br/>   20 A M-hm.<br/>   21 Q What is that product? I'm not familiar.<br/>   22 What do you mean? What is it?<br/>   23 A It's the air bag in the --<br/>   24 Q Oh, yeah.<br/>   25 A -- vehicle that goes down the side, the</p> |